

EXHIBIT P

D000750

DEPOSITION
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EXHIBIT
PX.31

800-631-6989

Van Scoy Diamond Mine



Registration and Certification

This is to certify that the Diamond(s) purchased by

has been precision-cut by master craftsmen and has been rigidly inspected, is finely cut and carefully selected for excellent proportions and exquisite brilliance, and accepted as meeting our strict standards.

Diamond Shape _____ Precious Metal _____
Registration No. _____ Date of Purchase _____

Lifetime Trade-In Warranty

This diamond will be accepted for trade-in on a diamond of twice the size at the store where originally purchased.
The trade-in allowance will be equal to the price that we are selling any diamond in stock of the same size and quality on that day.

Lifetime Mounting Warranty

The mounting for this diamond is warranted against any and all original defects of material and workmanship.

VAN SCOY DIAMOND MINE

Address 1117 Churchmans Place

Manager _____

VALUE ASSURANCE

This Van Scoy diamond is WARRANTED to be Better Quality than any other store's diamond of the same size and at the price that you paid, when compared, side by side, under a microscope, regardless of whatever grading that other store assigns to their diamond.

Loss of Diamond From Mounting

Should the diamond described herein come loose from the mounting within one year from date of purchase due to original defect in materials and workmanship, The Van Scoy Store where purchased will replace said diamond provided the mounting is returned for inspection to ascertain that the diamond did, in fact, become lost due to original defect in material or workmanship on said mounting.

Even though diamond is the hardest substance known to man ALL diamond jewelry should be treated with care since they can be chipped or scratched by other diamonds.

To be sure that your diamond is safe from loss and damage, take it into any Van Scoy Diamond Mine for cleaning and inspection for damaged prongs, etc., at least every 3 months or AS OFTEN AS YOU WISH, AT NO CHARGE.

VAN SCOY DIAMOND MINE

EXHIBIT P

EXHIBIT Q

Van Scoy Diamond Mine®

Registration and Certification

This is to certify that the Diamond(s) purchased by

_____ has been precision-cut by master craftsmen and has been rigidly inspected, is finely cut and carefully selected for excellent proportions and exquisite brilliance, and accepted as meeting our strict standards.

Diamond Shape _____ Precious Metal _____
Registration No. _____ Date of Purchase _____

Lifetime Trade-in Warranty

This diamond solitaire will be accepted for trade-in on a diamond of twice the size at the store where originally purchased.

The trade-in allowance will be equal to the price that we are selling any diamond in stock of the same size and quality on that day.

Lifetime Mounting Warranty

The mounting for this diamond is warranted against any and all original defects of material and workmanship for the life thereof, wear and deterioration excepted.

VALUE ASSURANCE

This Van Scoy diamond is **WARRANTED** to be Better Quality than any other store's diamond of the same size and at the price that you paid, when compared, side by side, under a microscope, regardless of whatever grading that other store assigns to their diamond.

Loss of Diamond From Mounting

Should the diamond described herein come loose from the mounting within one year from the date of purchase due to original defect in materials and workmanship, The Van Scoy Store where purchased will replace said diamond provided the mounting is returned for inspection to ascertain that the diamond did, in fact, become lost due to original defect in material or workmanship on said mounting.

Even though diamond is the hardest substance known to man ALL diamond jewelry should be treated with care since they can be chipped or scratched by other diamonds.

To be sure that your diamond is safe from loss and damage, return it to Van Scoy Diamond Mine for cleaning and inspection for damaged prongs, etc., at least every 3 months or **AS OFTEN AS YOU WISH, AT NO CHARGE.**

VAN SCOY DIAMOND MINE®
154 Mundy St., Wilkes-Barre, PA 18702
570-826-0765

EXHIBIT Q

01670

EXHIBIT R

REDACTED

EXHIBIT S

IN THE UNITED STATES DISTRICT COURT
THE DISTRICT OF DELAWARE

WAYNE VAN SCOY

PLAINTIFF

C.A.NO. 05-108 (KAJ)

V.

VAN SCOY DIAMOND MINE OF
DELAWARE, INC., :
KURT VAN SCOY AND
DONNA VAN SCOY

DEFENDANTS

**DEFENDANTS' RESPONSES TO PLAINTIFF'S
FIRST SET OF REQUESTS FOR ADMISSIONS UNDER FRCP 36**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, through their counsel, hereby respond to Plaintiff's First Set of Requests For Admissions Under Fed. R. Civ.P.36.

GENERAL OBJECTIONS

1. Plaintiff's First Set Of Requests For Admissions Under Fed. R. Civ.P.36 is defective and, hence, invalid, in so far as it fails to comply with Fed. R. Civ. P. 36.
2. Defendants object to all of Plaintiff's Definitions and Instructions in Plaintiff's First Set of Requests For Admissions Under Fed. R. Civ.P.36 to the extent that they do not conform to Fed. R. Civ.P.36.
3. Defendants object to each and every request in its entirety to the extent it seeks admission that is not relevant to a claim or defense of this litigation and is not reasonably calculated to lead to the discovery of admissible evidence.

4. Defendants object to each and every request to the extent it calls for information that could have been obtained more efficiently by other means of discovery.

5. Defendants object to each and every request to the extent it seeks admissions respecting information containing privileged communications, attorney work-product, client work-product, or trial preparation material, on the grounds that such discovery is not permissible under the Federal Rules of Civil Procedure. None of Defendants' specific responses shall be construed to mean that Defendants intend to provide privileged or work-product information in the absence of an intentional waiver. Any inadvertent disclosure of privileged information or work-product shall not constitute a waiver of an otherwise valid claim of privilege, and any failure to assert a privilege or other protection as to certain information shall not be deemed to constitute a waiver of the privilege or other protection as to any other information so protected.

6. Defendants object to each and every request to the extent that it is vague, ambiguous, overbroad, vexatious, unduly burdensome or seeks information not relevant to a claim or defense involved in the pending action nor reasonably calculated to lead to the discovery of admissible evidence.

7. Defendants object to each and every request to the extent that it seeks an admission already elicited by plaintiff during the depositions of defendants Kurt Van Scoy, Donna Van Scoy and/or Van Scoy Diamond Mine of Delaware, Inc.

8. Defendants object to each and every request to the extent that it seeks information protected by any confidentiality obligation owed to a third party, and to the extent such information is sought it is provided under the terms of the Stipulated Protective Order.

9. Defendants object to Plaintiff's Definitions and Instructions as improperly attempting to impose burdens and obligations upon Defendants beyond the requirements of the Federal Rules of Civil Procedure.

10. Defendants present each of the general objections set forth above to each of the requests. By setting forth specific objections, Defendants do not intend to limit or restrict the general objections contained in this response. To the extent Defendants provide information in response to a specific request to which objection has been raised, Defendants reserve the right to maintain such objection(s) with respect to any additional information and such objections are not waived by the furnishing of information.

11. Defendants expressly reserve the right to supplement and/or amend these responses should additional information become available.

REQUESTS FOR ADMISSIONS

1. Tommy Van Scoy never expressly gave Kurt Van Scoy permission to use the mark VAN SCOY DIAMOND MINE.

RESPONSE: Denied

2. Van Scoy Diamond Mine, Inc. never impliedly nor expressly gave Kurt Van Scoy permission to use the mark VAN SCOY DIAMOND MINE.

RESPONSE: Denied

26. Defendant Van Scoy Diamond Mine of Delaware, Inc. operates its jewelry store business in a geographic area which, except for its internet business, is geographically distinct from any other jewelry store using the mark VAN SCOY DIAMOND MINE, VAN SCOY DIAMONDS, VAN SCOY JEWELERS or VAN SCOY.

RESPONSE: Admitted that Defendants know of no other jewelry store in Defendants' trading area using the any of the marks "VAN SCOY DIAMOND MINE", "VAN SCOY DIAMONDS", "VAN SCOY JEWELERS" or "VAN SCOY".

27. Defendant, Van Scoy Diamond Mine of Delaware, Inc., operates its jewelry store business in a geographic area which is, except for its internet business, geographically distinct from the jewelry store business in Wilkes-Barre, PA under the mark VAN SCOY DIAMOND MINE.

RESPONSE: Admitted.

28. Defendant, Van Scoy Diamond Mine of Delaware, Inc., operates it jewelry store business in a geographic area which is, except for its internet business, geographically distinct from the jewelry store business in Scranton, PA under the mark VAN SCOY DIAMOND MINE or VAN SCOY DIAMONDS.

RESPONSE: Admitted.

29. Defendant, Van Scoy Diamond Mine of Delaware, Inc., operates it jewelry store business in a geographic area which is, except for its internet business, geographically distinct from a jewelry store business operated in Lancaster, PA.

RESPONSE: Admitted.

30. Defendant, Van Scoy Diamond Mine of Delaware, Inc., operates its jewelry store business in a geographic area which is, except for its internet business, geographically distinct from a jewelry store business operated in Reading, PA.

RESPONSE: Admitted.

31. Defendant, Van Scoy Diamond Mine of Delaware, Inc., operates its jewelry store business in a geographic area which is, except for its internet business, geographically distinct from a jewelry store business operated in Erie, PA.

RESPONSE: Admitted.

32. Defendant, Van Scoy Diamond Mine of Delaware, Inc., operates its jewelry store business in a geographic area which is, except for its internet business, geographically distinct from a jewelry store business operated in Allentown, PA.

RESPONSE: Admitted.

33. Defendant, Van Scoy Diamond Mine of Delaware, Inc., operates its jewelry store business in a geographic area which is, except for its internet business, geographically distinct from a jewelry store business operated in North Carolina.

RESPONSE: Admitted.

34. Defendant, Van Scoy Diamond Mine of Delaware, Inc., operates its jewelry store business in a limited geographic area known as the Wilmington, Delaware area.

RESPONSE: Defendants object to this request as being vague in filing to define the modifier "limited" with respect to "geographic area". Without prejudice to the forgoing objection denied; admitted that Defendant Van Scoy Diamond Mine of Delaware, Inc. operates its jewelry store business in Newark, Delaware.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that the date written below adjacent to my signature I served the following document

**DEFENDANTS' RESPONSES TO PLAINTIFF'S FIRST
SET OF REQUESTS FOR ADMISSIONS**

on Michael C. Petock, Esquire, as an attachment to e-mails addressed to:

MP@IPLaw-Petock.com and

mfpetock@comcast.net

and on John G. Day, Esquire, as an attachment to an e-mail addressed to:

jday@ashby-geddes.com

and by United States Postal Service first class mail, postage prepaid, to the following addresses:

**Michael C. Petock, Esquire
Michael F. Petock, Esquire
Petock & Petock LLC
46 The Commons at Valley Forge
1220 Valley Forge Road
P.O. Box 856
Valley Forge, PA 19482-0856**

and

**John G. Day, Esquire
Ashby & Geddes
222 Delaware Avenue, 17th Floor
P.O. B1150
Wilmington, DE 19899**

FOX ROTHSCHILD LLP



Charles N. Quinn

7 October 2005
(date)

EXHIBIT T



In the Matter Of:

Van Scoy

V.

Van Scoy Diamond Mine of Delaware, Inc.

C.A. # 05-108 (KAJ)

Transcript of:

Donna Van Scoy

September 19, 2005

Wilcox & Fetzer, Ltd.
Phone: 302-655-0477
Fax: 302-655-0497
Email: lhertzog@wilfet.com
Internet: www.wilfet.com

EXHIBIT T

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

WAYNE VAN SCOY,)
)
Plaintiff,)
) Civil Action
v.) No. 05-108 (KAJ)
)
VAN SCOY DIAMOND MINE OF)
DELAWARE, INC., KURT VAN SCOY)
AND DONNA VAN SCOY,)
)
Defendants.)

Videotape deposition of DONNA VAN SCOY taken pursuant to notice at the law offices of Ashby & Geddes, 17th floor, 222 Delaware Avenue, Wilmington, Delaware, beginning at 9:58 a.m. on September 19, 2005, before Lucinda M. Reeder, Registered Diplomate Reporter and Notary Public.

APPEARANCES:

MICHAEL F. PETOCK, ESQ.
MICHAEL C. PETOCK, ESQ.
PETOCK & PETOCK, LLC
222 Delaware Avenue, 17th Floor
Wilmington, Delaware 19801
for the Plaintiff,

CHARLES N. QUINN ESQ.
FOX ROTHSCHILD LLP
2000 Market Street - Tenth Floor
Philadelphia, PA 19103-3291
for the Defendants.

ALSO PRESENT:

WAYNE VAN SCOY
KURT VAN SCOY
CAROL FEENEY, DISCOVERY VIDEO SERVICES

WILCOX & FETZER, LTD.
1330 King Street - Wilmington, Delaware 19801
(302) 655-0477

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Page 4

1 THE VIDEOGRAPHER: This is the videotaped
2 deposition of Donna Van Scoy, taken by the plaintiff
3 in the matter of Wayne Van Scoy versus Van Scoy
4 Diamond Mine of Delaware, Incorporated, Kurt Van Scoy,
5 and Donna Van Scoy, Civil Action No. 05-108- (KAJ)
6 held in the offices of Ashby & Geddes, 222 Delaware
7 Avenue, Wilmington, Delaware on September 19th, 2005
8 at approximately 9:58 a.m.

9 The court reporter is Cindy Reeder, from
10 the firm of Wilcox & Fetzer. My name is Carol Feeley,
11 a video specialist from Discovery Video Services, in
12 association with Wilcox & Fetzer.

13 Counsel will introduce themselves, and the
14 reporter will swear in the witness.

15
16 MR. MICHAEL F. PETOCK: I'm Michael F.
17 Petock, for the plaintiff.

18 MR. QUINN: I'm Charles M. Quinn, for the
19 defendants.

20 MR. MICHAEL C. PETOCK: Michael C. Petock,
21 for plaintiff.

22
23
24

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Page 5

1 DONNA VAN SCOY,
2 the witness herein, having first been
3 duly sworn on oath, was examined and
4 testified as follows:

5 MR. QUINN: I would like to make a
6 statement before we start. The notice of deposition
7 for Mrs. Van Scoy asked that she bring and produce any
8 documents that have not already been produced for the
9 plaintiff that she reviewed in preparation for this
10 deposition. And I state to you that there are none.

11 MR. MICHAEL F. PETOCK: Thank you.

12 BY MR. MICHAEL F. PETOCK:

13 Q. Mrs. Van Scoy, I am going to ask you some
14 questions today.

15 MR. QUINN: Excuse me. Are we going to
16 have a stipulation as to read, signing?

17 MR. MICHAEL F. PETOCK: If you want to,
18 yes.

19 MR. QUINN: We had it before. I think
20 it's appropriate.

21 MR. MICHAEL F. PETOCK: So she's going to
22 reserve the right to read and sign you are saying?

23 MR. QUINN: Yes.

24 MR. MICHAEL F. PETOCK: Fine.

1 Anything else?

2 MR. QUINN: No. That's fine by me.

3 MR. MICHAEL F. PETOCK: Okay.

4 MR. QUINN: She can sign before any notary
5 public.

6 MR. MICHAEL C. PETOCK: Do you want to
7 stipulate to objections, Dad?

8 MR. MICHAEL F. PETOCK: Well, all
9 objections are reserved until the time of trial except
10 to the form of the question.

11 MR. QUINN: That's fine.

12 MR. MICHAEL F. PETOCK: The same
13 stipulation continues.

14 BY MR. MICHAEL F. PETOCK:

15 Q. Mrs. Van Scoy, I am going to ask you some
16 questions today. The court reporter is taking down
17 everything that is said. Do you understand that?

18 A. Yes.

19 Q. And you understand you are under oath and you
20 have an obligation to tell the truth?

21 A. Yes.

22 Q. You also understand that you are not to consult
23 with your counsel during the deposition with respect
24 to any questions that have been asked or anticipated

1 to be asked?

2 A. Yes.

3 Q. Do you understand that?

4 A. Yes.

5 Q. Do you understand that you have to answer the
6 questions unless your counsel instructs you not to
7 answer the question.

8 A. Mm-hmm.

9 Q. Can you tell me: How old are you?

10 A. 42.

11 Q. And do you have any education beyond high
12 school?

13 A. Yes.

14 Q. What is that?

15 A. An X-ray technician.

16 Q. When did you -- did you get a certificate as an
17 X-ray technician?

18 A. Yes. A certificate. I have four years of
19 schooling after high school.

20 Q. Where did you get that certificate from?

21 A. Connecticut.

22 Q. Where in Connecticut?

23 A. I don't remember the name right now.

24 Q. Where did you grow up at?

Page 6

1 A. Nanticoke, Pennsylvania.
 2 Q. And how far is that from Wilkes-Barre?
 3 A. Ten miles.
 4 Q. Were you familiar with Van Scoy Diamond Mine
 5 Stores at the time you grew up in Wilkes-Barre?
 6 A. Yes.
 7 Q. Was there radio advertising on the radio by
 8 Tommy Van Scoy, Sr.?
 9 A. Yes.
 10 Q. Did you consider the name to have been well
 11 known at the time you were growing up in Wilkes-Barre?
 12 A. Yes.
 13 Q. What is your work experience after high school?
 14 A. My work experience. I went to school and
 15 became an X-ray technician.
 16 Q. Did you work as an X-ray technician?
 17 A. Yes.
 18 Q. For how long?
 19 A. Ten years.
 20 Q. Did you hold any other jobs?
 21 A. No.
 22 Q. Did you ever work in a Van Scoy Diamond Mine
 23 Store?
 24 A. I work in one now.

Page 7

1 Q. I'm sorry. Did you ever work in a Van Scoy
 2 diamond store before -- strike that. When did you
 3 open a store Van Scoy Diamond Mine of Delaware, Inc.?
 4 A. My husband opened it in November of '94.
 5 Q. Did you also open it as part of the
 6 corporation?
 7 A. I wasn't there until a year and a half later.
 8 Q. Did you ever work in a Van Scoy Diamond Mine
 9 store prior to November of 1994?
 10 A. No.
 11 Q. Did you invest some money in the opening of the
 12 Van Scoy Diamond Mine store in Delaware?
 13 A. Yes.
 14 Q. How much did you invest?
 15 A. 20,000.
 16 Q. Where did that money come from?
 17 A. I took out two consecutive loans at the same
 18 time.
 19 Q. In your name?
 20 A. Yes.
 21 Q. And at that time, you became a percentage owner
 22 in Van Scoy Diamond Mine of Delaware, Inc. Is that
 23 correct?
 24 A. I don't know. I just gave my husband money to

Page 8

1 open the store. I don't really know that percentage.
 2 Q. Do you know what your percentage is today?
 3 A. No, I do not.
 4 Q. You are part owner of the store?
 5 A. I guess I would say, 50 percent. We do
 6 everything half and half.
 7 MR. QUINN: I am sure Mr. Petock does not
 8 want you to guess. Correct?
 9 Q. Yes. You give us your best information.
 10 A. Okay.
 11 Q. What are your -- do you work in the store
 12 Van Scoy Diamond Mine of Delaware, Inc., right now?
 13 A. Yes.
 14 Q. I'll refer to it as "Van Scoy Diamond Mine
 15 store in Delaware." Okay?
 16 A. Okay.
 17 Q. What are your job duties there?
 18 A. I pay the receipts and I pay the bills.
 19 Q. What do you mean when you say you do the
 20 receipts?
 21 A. I open the receipts every day and do -- put the
 22 money in the checkbook, and then I pay the bills in
 23 turn.
 24 Q. These receipts are payments coming in from

Page 9

1 customers?
 2 A. Payments and sales, yes.
 3 Q. What do you mean by "sales"?
 4 A. Anything that is sold. Anything that is
 5 documented from a customer.
 6 Q. So that's sales in the store and sales -- and
 7 receipts that come in through the mail. Is that
 8 correct?
 9 A. There are none in the mail. It's just usually
 10 people coming in.
 11 Q. Do you have any other job responsibilities at
 12 Van Scoy Diamond Mine in Delaware?
 13 A. No. I'm very part-time.
 14 Q. How much time do you spend at the store?
 15 A. Four hours a day, maybe if I'm there. Maybe
 16 four days a week.
 17 Q. What days a week do you work?
 18 A. Usually Tuesday through Friday.
 19 Q. Have these responsibilities, job duties changed
 20 from 1994?
 21 A. No.
 22 Q. From 1994 to present, you were always doing the
 23 same thing, working part-time and only handling the
 24 receipts and deposits. Is that correct?

Page 10

- 1 A. Correct.
- 2 Q. Does your husband Kurt Van Scoy have any
- 3 education beyond high school?
- 4 A. No.
- 5 Q. When did you meet Kurt Van Scoy?
- 6 A. 1992.
- 7 Q. Where did you meet him?
- 8 A. The Woodlands.
- 9 Q. What is that?
- 10 A. A nightclub.
- 11 Q. And where is that?
- 12 A. In Wilkes-Barre.
- 13 Q. And has your relationship with Kurt been good?
- 14 A. Yes.
- 15 Q. Do you communicate freely on everything?
- 16 A. Yes.
- 17 Q. Do you communicate freely with respect to the
- 18 operation of Van Scoy Diamond Mine store in Delaware?
- 19 A. Not in a business sense; just how was our day.
- 20 Some days are very stressful.
- 21 Q. What about decisions on when to advertise and
- 22 how to advertise?
- 23 A. He solely does the advertising.
- 24 Q. You don't give him any communication or input

Page 11

- 1 on that?
- 2 A. I think it's expensive and I'd rather not.
- 3 Q. Do you discuss like, it's good to advertise
- 4 before Christmas or something like that?
- 5 A. No, I don't.
- 6 Q. What about the layout of the ads, do you get
- 7 involved in that at all?
- 8 A. No.
- 9 Q. Do you wait on customers?
- 10 A. At Christmas time, yes.
- 11 Q. Do you wait on customers at any other time of
- 12 the year?
- 13 A. Not usually.
- 14 Q. How would you define "Christmas time"?
- 15 A. Our busiest time of the year.
- 16 Q. But from when to when would that extend?
- 17 A. I would say, it depends every year, but mostly
- 18 two weeks prior.
- 19 Q. So in November, you wouldn't be waiting on
- 20 customers?
- 21 A. Not necessarily.
- 22 Q. What do you mean by "not necessarily"?
- 23 A. If someone were to be on vacation, I may have
- 24 to cover. We usually have enough staff to cover how

Page 12

- 1 many customers come in the door.
- 2 Q. And when does the Christmas period end as far
- 3 as your selling is concerned?
- 4 A. Christmas eve.
- 5 Q. Do you do anything with respect to keeping
- 6 track of finances?
- 7 A. No.
- 8 Q. Who does that?
- 9 A. Our accountant.
- 10 Q. How does he do that?
- 11 A. He comes to our store twice a month and does
- 12 the bookkeeping.
- 13 Q. What does he use to do the bookkeeping?
- 14 A. My computer.
- 15 Q. What's on your computer?
- 16 A. The invoices that go in and the checks that
- 17 come out.
- 18 Q. Who is your accountant?
- 19 A. James Bellenger.
- 20 Q. He is located where?
- 21 A. In Bear, Delaware.
- 22 Q. Does the accountant give you back a summary
- 23 each month?
- 24 A. No.

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- 1 Q. Does the accountant give you anything back?
- 2 A. No. He does everything.
- 3 Q. What do you mean "he does everything"?
- 4 A. I don't need a summary because he does the
- 5 taxes. So he does what he needs to do on my computer
- 6 and then follows up with it every month and at the end
- 7 of the year.
- 8 Q. At some point in time, you changed the name of
- 9 your website address from Van Scoy Diamond Mine.com to
- 10 Van Scoy Diamonds of Delaware.com. Do you know when
- 11 you did that?
- 12 A. No.
- 13 Q. Was there an invoice for doing that?
- 14 A. No. The only invoice I get is from the company
- 15 itself.
- 16 Q. What company is that?
- 17 A. I believe it was Trusion.
- 18 Q. Trusion. T-R-U-S-I-O-N?
- 19 A. Mm-hmm. Yes.
- 20 Q. What do they do?
- 21 A. I am not sure. I didn't have anything to do
- 22 with the Internet.
- 23 Q. You don't recall ever getting an invoice that
- 24 you had to pay for making that change?

Page 14

Page 16

1 A. No. It was just a monthly Internet fee.
2 Q. Do you know what Scoy Development, S-C-O-Y-
3 D-E-V is?

4 A. No.

5 Q. Have you ever seen that before?

6 A. Never heard of it.

7 Q. Why did you decide to open a store in
8 Wilmington, Delaware?

9 MR. QUINN: Objection to the form of the
10 question. I don't think the foundation for that has
11 been established.

12 Q. You can answer the question. He objected, but
13 you still have to answer the question.

14 A. Why, I don't really remember.

15 Q. Why didn't you open one in Wilkes-Barre?

16 A. Because there was already one there.

17 Q. Did the same thing apply for Allentown?

18 A. I don't know. I don't know. Sorry.

19 Q. And the store that was opened in Wilmington at
20 1117 Churchmans Road or street, that was the same
21 location that Tommy Van Scoy previously had a store
22 there. Is that correct?

23 MR. QUINN: Objection to the form of the
24 question. The question presumes a store was opened in

Page 15

1 Wilmington. I think that's actually not actually
2 correct.

3 Q. Can you answer the question?

4 A. I forgot it now. I'm sorry.

5 MR. QUINN: You can have it read back if
6 you'd like.

7 Q. You opened a store at 1117 Churchmans Road, is
8 it?

9 A. Yes.

10 Q. You opened that in about November of 1994. Is
11 that correct?

12 A. Yes.

13 Q. And at that same location, about a year and a
14 half year earlier Tommy Van Scoy, Sr. had operated a
15 store there. Is that correct?

16 A. I was told that.

17 Q. Who told you that?

18 A. My father-in-law and my husband.

19 Q. Your father-in-law was Tommy Van Scoy, Sr.?

20 A. Yes.

21 Q. You signed a personal guarantee on the lease on
22 that property when you opened it. Isn't that correct?

23 A. I don't remember.

24 MR. MICHAEL F. PETOCK: I would like to

1 have this marked as Plaintiff's Exhibit 17.

2 (Plaintiff's Exhibit No. 17 was marked for
3 identification.)

4 BY MR. MICHAEL F. PETOCK:

5 Q. I show you what's been marked as Plaintiff's
6 Exhibit 17. Can you identify that?

7 A. It's a lease agreement.

8 Q. For what is the lease agreement?

9 A. To lease the property.

10 Q. What property? Is it the lease for your store?

11 A. Yes.

12 Q. That's Van Scoy Diamond Mine of Delaware, Inc.
13 Is that correct?

14 A. Yes.

15 Q. And I direct your attention to the fourth page
16 of the document, which is identified in the lower
17 right-hand corner as D 000754. Do you see that?

18 A. Mm-hmm.

19 Q. Isn't that -- is that your signature on there,
20 Donna Van Scoy?

21 A. Yes.

22 Q. That's a lease guarantee. Isn't that correct?

23 A. Yes.

24 Q. It's for the location of your Van Scoy Diamond

Page 17

1 Mine store. Is that not correct?

2 A. Yes.

3 Q. That was in October of 1994?

4 A. Yes.

5 Q. Were you an officer or director of Van Scoy
6 Diamond Mine of Delaware, Inc.?

7 A. Secretary.

8 Q. When you say you're secretary?

9 A. That's what it says on the form.

10 Q. On what form?

11 A. The corporation form.

12 MR. MICHAEL F. PETOCK: I guess we
13 haven't received that form, Charlie. I'd ask that you
14 produce it.

15 BY MR. MICHAEL F. PETOCK:

16 Q. What do you do as secretary of the corporation?

17 A. As I told you before, receipts and the bills.

18 Q. Do you do anything else --

19 A. No.

20 Q. -- in connection with being secretary of the
21 corporation?

22 A. Well, I do sales and take out the trash as
23 well.

24 Q. Have you attended any corporate meetings?

Page 18

1 A. No.
 2 Q. Have you ever attended any corporate meetings?
 3 A. I don't remember.
 4 MR. MICHAEL F. PETOCK: I would like to
 5 have this marked as Plaintiff's Exhibit 18.
 6 (Plaintiff's Deposition Exhibit No. 18 was
 7 marked for identification.)
 8 BY MR. MICHAEL F. PETOCK:
 9 Q. I show you what's been marked as Plaintiff's
 10 Exhibit 18. Do you recognize that?
 11 A. No.
 12 Q. Do you know what it is?
 13 A. Minutes of annual meeting of shareholders and
 14 directors.
 15 Q. Of what corporation?
 16 A. Van Scoy.
 17 Q. Diamond Mine of Delaware, Inc. Isn't that
 18 correct?
 19 A. Correct.
 20 Q. It says there that the only shareholder present
 21 was Kurt Van Scoy, is that correct, in the lower
 22 portion of the page?
 23 A. Yes.
 24 Q. Those are the minutes for 2005, is that

Page 19

1 correct, the first paragraph?
 2 A. I guess. I don't know.
 3 Q. That's what it says, isn't that correct, the
 4 second line, the first paragraph?
 5 A. I guess.
 6 Q. Is that correct?
 7 A. If that's what it says.
 8 Q. Isn't it true that on page 2 you were appointed
 9 as vice-president or elected as vice-president?
 10 A. No.
 11 Q. I direct your attention to the second group of
 12 names listing. It says, "President, Kurt Van Scoy,
 13 vice-president, Donna Van Scoy." Do you see that?
 14 A. Yes.
 15 Q. Isn't it true that you are vice-president of
 16 the corporation?
 17 A. I never heard of that before.
 18 MR. MICHAEL F. PETOCK: I would like to
 19 have this marked as Plaintiff's Exhibit 19.
 20 (Plaintiff's Exhibit No. 19 was marked for
 21 identification.)
 22 BY MR. MICHAEL F. PETOCK:
 23 Q. I show you what's been marked as Plaintiff's
 24 Exhibit 19, P-19, Plaintiff's 19. Can you identify

Page 20

1 that?
 2 A. It looks like the same thing as the prior one.
 3 Q. That's minutes for Van Scoy Diamond Mine of
 4 Delaware, Inc., the annual meeting?
 5 A. Yes.
 6 Q. But it's for 2004. Is that correct?
 7 A. That's what it says, yes.
 8 Q. Again, you were not present at the meeting. Is
 9 that correct?
 10 A. Correct.
 11 Q. Again on the second page, you are nominated and
 12 were unanimously elected to be vice-president?
 13 A. No, I was not.
 14 Q. You were not?
 15 A. I am not the vice-president.
 16 Q. You are the secretary?
 17 A. I am the secretary.
 18 Q. Even though the minutes say you are
 19 vice-president?
 20 A. It must have been a mistake.
 21 MR. MICHAEL F. PETOCK: I would like to
 22 have this marked as P-20.
 23 (Plaintiff's Exhibit No. 20 was marked for
 24 identification.)

Page 21

1 BY MR. MICHAEL F. PETOCK:
 2 Q. I show you what's been marked as Plaintiff's
 3 Exhibit 20. Can you identify that?
 4 A. I guess it's the same thing again for 2003.
 5 Q. And, again, does it show that you were not
 6 present at the meeting?
 7 A. Yes.
 8 Q. And, again, does it show that you were elected
 9 to be vice-president of the corporation?
 10 A. My name is listed as vice-president, but I am
 11 secretary. On every form, income tax form, I am
 12 secretary. This must be a mistake at my accountant's
 13 office.
 14 MR. MICHAEL F. PETOCK: Charlie, we
 15 request that you provide us with all documents that
 16 show Donna Van Scoy to be secretary of the
 17 corporation.
 18 MR. MICHAEL F. PETOCK: Would you mark
 19 this as Plaintiff's Exhibit 21?
 20 (Plaintiff's Deposition Exhibit No. 21 was
 21 marked for identification.)
 22 BY MR. MICHAEL F. PETOCK:
 23 Q. I show you what's been marked as Plaintiff's
 24 Exhibit 21. Can you identify that?

Page 22

1 A. Shareholders and directors.
 2 Q. Is it the minutes of the annual meeting of
 3 shareholders and directors for Van Scoy Diamond Mine
 4 of Delaware, Inc. for the year 2002?
 5 A. Yes.
 6 Q. It shows you were not present at the meeting.
 7 Is that correct?
 8 A. Correct.
 9 Q. On page 2, it shows again you were elected to
 10 be vice-president of the corporation. Is that
 11 correct?
 12 A. As far as I know, I am the secretary.
 13 Q. But the document says you are vice-president.
 14 Is that correct?
 15 A. It does say that, yes.
 16 Q. Do you have any idea how what you characterize
 17 as a mistake happened?
 18 A. No, I don't.
 19 Q. And to your knowledge, you don't recall
 20 attending any corporate meetings?
 21 A. No.
 22 Q. Even though you are 50 percent stockholder?
 23 A. Yes.
 24 MR. MICHAEL F. PETOCK: I would like to

Page 23

1 have this marked as Plaintiff's Exhibit 22.
 2 (Plaintiff's Exhibit No. 22 was marked for
 3 identification.)
 4 BY MR. PETOCK:
 5 Q. Can you identify Plaintiff's Exhibit 22?
 6 A. Shareholders meeting, 2001.
 7 Q. Of the corporation Van Scoy Diamond Mine of
 8 Delaware, Inc. Isn't that correct?
 9 A. Yes.
 10 Q. And it shows, again, you were not present at
 11 the meeting. Is that correct?
 12 A. Correct.
 13 Q. On page 2, it shows also you were elected to be
 14 vice-president of the corporation?
 15 A. Yes.
 16 MR. MICHAEL F. PETOCK: Is the next
 17 number 23?
 18 (Plaintiff's Exhibit No. 23 was marked for
 19 identification.)
 20 BY MR. MICHAEL F. PETOCK:
 21 Q. I show you what's been marked as Plaintiff's
 22 Exhibit 23. Do you recognize that?
 23 A. Some minutes of a meeting.
 24 Q. It's the minutes of the annual meeting of

Page 24

1 shareholders and directors of Van Scoy Diamond Mine of
 2 Delaware, Inc. for the year 2000. Is that correct?
 3 A. Yes.
 4 Q. It shows you were present at that meeting. Is
 5 that correct?
 6 A. I don't remember.
 7 Q. Do you recall being at any meetings at the
 8 offices of Ralph V. Estep?
 9 A. No.
 10 Q. Again, on page 2, it shows you being elected as
 11 vice-president of the corporation. Is that correct?
 12 A. Yes.
 13 Q. But, again, you say that was an error and that
 14 you were secretary. Is that correct?
 15 A. Yes.
 16 Q. What forms have you listed as secretary?
 17 A. What forms do I have?
 18 Q. What forms are you referring to that list you
 19 as secretary of the corporation?
 20 A. When we first started it. That's the only
 21 thing I could think of that would say that, the very
 22 first form. The one that would be Cayman
 23 incorporated.
 24 Q. You think the articles of incorporation say

Page 25

1 that?
 2 A. Yes. To my knowledge.
 3 Q. Take a look at Plaintiff's Exhibit P-23. Take
 4 a look at the last page, which is marked D000758.
 5 A. Mm-hmm.
 6 Q. Is that your signature on there?
 7 A. No.
 8 Q. Above the name "Donna Van Scoy," is that not
 9 your signature?
 10 A. No.
 11 Q. Do you know who signed your name?
 12 A. No.
 13 Q. Do you know who wrote that signature on there?
 14 A. No.
 15 MR. QUINN: Objection. The question has
 16 been asked and answered.
 17 Q. Can you take a look at P-22, the last page?
 18 Whose signature is that?
 19 A. Kurt's.
 20 MR. QUINN: Objection. I instruct the
 21 witness to give me a second to get my objection in
 22 before you give the answer.
 23 A. Sorry.
 24 MR. QUINN: To what signature does the

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1 question refer?

2 MR. MICHAEL F. PETOCK: Well, okay. The
3 signature above the name "Kurt Van Scoy."

4 Q. You can answer the question now.

5 A. Kurt Van Scoy.

6 Q. Can I ask you to go back and take a look at
7 P-23 again?

8 A. Absolutely.

9 Q. The last page, D000758. Above the name "Kurt
10 Van Scoy" in two places, whose signature is that?

11 A. Kurt Van Scoy.

12 (Plaintiff's Exhibit No. 24 was marked for
13 identification.)

14 BY MR. MICHAEL F. PETOCK:

15 Q. I show you what's been marked as Plaintiff's
16 Exhibit 24. Is that the minutes of the annual meeting
17 of shareholders and directors of Van Scoy Diamond Mine
18 of Delaware, Inc., for the year 1999?

19 A. Yes.

20 Q. It shows you were present as a shareholder at
21 that meeting. Is that correct?

22 A. Yes.

23 Q. The second page also shows that you were
24 elected vice-president of the corporation for the

1 Q. I show you what's been marked as Plaintiff's

2 Exhibit 25. Is that the minutes of the annual meeting
3 of shareholders and directors of Van Scoy Diamond Mine
4 of Delaware, Inc. for the year 1998?

5 A. Yes.

6 Q. That also shows that you were present at that
7 meeting. Is that correct?

8 A. It says I was.

9 Q. Were you present at that meeting?

10 A. I don't remember.

11 Q. On page 2, which is D000763, it shows you being
12 elected as vice-president of the corporation. Is that
13 correct?

14 A. Yes.

15 Q. I direct your attention to page 3, which is
16 D000764. Above the signature line "Donna Van Scoy,"
17 is that your signature?

18 A. No.

19 Q. Did you authorize anyone to put your signature
20 on that?

21 A. I don't recall.

22 Q. Above the -- in two places, above the signature
23 line "Kurt Van Scoy," is that Kurt's signature?

24 A. Yes.

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1 year. Is that correct?

2 A. Yes.

3 Q. On the third page, which is D000761, there is a
4 signature for Donna Van Scoy. Is that your signature
5 on there?

6 A. No.

7 Q. Do you know who signed that?

8 A. No.

9 Q. Did Kurt sign that?

10 MR. QUINN: Object. Asked and answered.
11 She's already answered the question she doesn't know.
12 You don't need to answer the question.

13 Q. Did Kurt sign?

14 A. I don't know.

15 Q. Above the -- in two places on that same page
16 above the signature line "Kurt Van Scoy," is that
17 Kurt's signature?

18 A. Yes.

19 MR. MICHAEL F. PETOCK: I would like to
20 have this marked as Plaintiff's Exhibit 25.

21 (Plaintiff's Exhibit No. 25 was marked for
22 identification.)

23

24 BY MR. MICHAEL F. PETOCK:

1 Q. Did you ever attend a corporate meeting at a
2 lawyer's name of Aregood in Wilkes-Barre?

3 A. I believe so.

4 Q. Do you believe that would have been at the 1996
5 meeting?

6 A. I don't remember.

7 Q. Do you recall being at any meeting in
8 Mr. Aregood's office in which tradename issues were
9 discussed?

10 A. No.

11 Q. In 1996, were you aware that there was a
12 proceeding started in the bankruptcy court to enjoin
13 the use of the Van Scoy Diamond Mine?

14 A. I knew there was a bankruptcy case. That's all
15 I knew.

16 Q. How did you know there was a bankruptcy case?

17 A. Because my father-in-law was going through it.
18 I didn't know the details.

19 Q. Did you know that the store in Wilkes-Barre --
20 that the Van Scoy Diamond Mine in Wilkes-Barre was
21 padlocked by the bankruptcy court at one time?

22 A. Yes. I was told that.

23 Q. Did you also know at some later date they had
24 to take the name down, they had to change their name

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1 on the store in Wilkes-Barre?

2 A. As of this trial, I found that out.

3 Q. Prior to the institution of this lawsuit, you
4 didn't know about that?

5 A. No, I did not.

6 Q. Do you know where the meetings are for -- or
7 the minutes for the meetings for the corporation
8 Van Scoy Diamond Mine for '95, '96, '97?

9 A. No.

10 MR. MICHAEL F. PETOCK: Charlie, I'd ask
11 that you produce the minutes for the meetings for the
12 years '95, '96 and '97.

13 BY MR. MICHAEL F. PETOCK:

14 Q. Was there ever any concern expressed by Kurt or
15 concern on your behalf about using the name "Van Scoy
16 Diamond Mine"?

17 A. No.

18 Q. Did Tommy Van Scoy, Sr. ever say anything to
19 you that would give you permission to use the name
20 "Van Scoy Diamond Mine"?

21 A. Yes. He gave it to us.

22 Q. What did he say to you?

23 A. He said, "Good luck and I hope you guys do
24 well."

1 Q. How did he help you out?

2 A. Actually just stood and helped make sales and
3 helped keep the girls motivated.

4 Q. Did he ever say anything about the corporation
5 Van Scoy Diamond Mine of Delaware, Inc. impliedly
6 received any permission to use the mark "Van Scoy
7 Diamond Mine"?

8 A. I knew nothing about a mark until this trial.

9 Q. So he was telling you good luck with the store
10 hoping you were successful. Is that correct?

11 A. That's correct.

12 Q. And you took his comments "good luck" to mean
13 that you could use the mark in Delaware, is that
14 correct, in Newark, Delaware?

15 A. I don't understand the question.

16 Q. What was your understanding of the scope of the
17 permission that was granted to you, allegedly granted
18 to you by the words "good luck"?

19 A. He allowed us to open the store and wished us
20 good luck.

21 Q. In Newark, Delaware?

22 A. Yes.

23 Q. Nowhere else?

24 A. Nowhere else was ever brought up, I guess.

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1 Q. When did he say that?

2 A. When we opened the store. No. Prior, when he
3 gave us all the showcases and the sign and everything.

4 Q. Where was he when he said that?

5 A. In my store.

6 Q. He was in your store and he was giving you the
7 showcases and the sign in your store? Is that
8 correct?

9 MR. QUINN: Object.

10 A. He gave Kurt the equipment. He didn't
11 physically bring it. He said, "Good luck to you."
12 That's all.

13 Q. That's all he said?

14 A. I am sure there was more, but I don't recall.

15 Q. Did he ever do anything which would imply any
16 type of permission to use the name "Van Scoy Diamond
17 Mine"?

18 A. He used to come down to our store and work when
19 we had a sale or something big or just to come down
20 and help us out.

21 Q. When was that?

22 A. Numerous times.

23 Q. In what year?

24 A. '94, '95.

1 Q. Are you aware that at some point in time
2 somebody blocked out the word "Mine" from the sales
3 receipts of Delaware Diamond Mine of Delaware, Inc.?

4 A. Yes.

5 Q. Did you ever block out of any of those?

6 A. No.

7 Q. Do you know who did it?

8 A. Yes. My employees.

9 Q. Who was that?

10 A. Pardon?

11 Q. Who was that?

12 A. Megan Rump and Karen Vayo.

13 Q. Megan Rump, R-U-M-P?

14 A. Yes.

15 Q. What was the other name?

16 A. Karen Vayo, V-A-Y-O.

17 Q. V-A-Y-L-E?

18 A. V-A-Y-O.

19 Q. How do you identify yourself on sales receipts?

20 A. "DVS."

21 Q. Did the two girls do this jointly?

22 A. Yes.

23 Q. Megan and Karen?

24 A. Yes.

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1 Q. When did they do that?
 2 A. After we received notification of the lawsuit.
 3 Q. You mean after you received the cease and
 4 desist letter?
 5 A. Yes.
 6 Q. These sales receipts, do they come in a booklet
 7 or in individual forms, multi-part individual forms?
 8 A. In a carbon copy form notebook.
 9 Q. They are in a notebook?
 10 A. Mm-hmm.
 11 Q. So you tear one off as you use it?
 12 A. Yes.
 13 Q. Were these crossed out one at a time as --
 14 A. No.
 15 Q. How many were done at one time, do you know?
 16 A. Well, the entire book.
 17 Q. Did you use any of the sales receipts with the
 18 name "Mine" blocked out?
 19 A. Yes.
 20 Q. Were you upset that you were doing that?
 21 A. No.
 22 Q. Did you tell the girls Megan and Karen Rump --
 23 Megan Rump and Karen --
 24 A. Vayo.

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1 Q. -- Vayo not to do it?
 2 A. I'm confused.
 3 Q. Did you tell Karen Rump -- I'm sorry. Did you
 4 tell Megan Rump and Karen Vayo not to cross out the
 5 word "Mine" from the sales receipts any longer?
 6 A. Yes.
 7 Q. You felt that there was no need to cross out
 8 the word "Mine." Is that correct?
 9 A. Yes.
 10 Q. Did you chastise Karen and Megan for crossing
 11 out the sales receipts?
 12 A. "Chastise" meaning?
 13 Q. Tell them they really did a wrong thing by
 14 crossing it out, that they shouldn't take -- I presume
 15 they took this on themselves and did it?
 16 MR. QUINN: Objection. There is no
 17 question on the table.
 18 Q. How did it come that Karen and Megan crossed
 19 out the word "Mine" on the sales receipts?
 20 A. I told them to.
 21 Q. You told them to?
 22 A. Yes.
 23 Q. And then you later told them not to do it
 24 anymore?

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1 A. No. I later said we didn't need to do it.
 2 Q. Why did you later tell her that you did not
 3 need to do it?
 4 A. Under the advice of counsel.
 5 Q. What was that advice?
 6 MR. QUINN: Objection. That's privileged
 7 information. You are instructed not to answer.
 8 MR. MICHAEL F. PETOCK: If she's relying
 9 upon advice of counsel, it's not privileged.
 10 MR. QUINN: It certainly is.
 11 MR. MICHAEL F. PETOCK: It certainly is
 12 not.
 13 BY MR. MICHAEL F. PETOCK:
 14 Q. So when you first directed them to cross out
 15 "Mine" from the sales receipts, did you believe that
 16 crossing out "Mine" would avoid infringement?
 17 MR. QUINN: Objection to the form of the
 18 question. It's leading.
 19 A. I don't understand it anyway.
 20 Q. In the beginning, you requested Megan and Karen
 21 to cross out "Mine" from the sales receipt. Is that
 22 correct?
 23 MR. QUINN: Objection. Misleading.
 24 A. Yes.

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1 Q. And when you asked them to do that, did you
 2 believe that would solve the problem with respect to
 3 the cease and desist letter and being a violation of
 4 "Van Scoy Diamond Mine"?
 5 MR. QUINN: Objection to the form of the
 6 question. It's a leading question.
 7 A. I don't understand.
 8 Q. When you instructed Megan and Karen to cross
 9 out the sales receipts, did you believe that was going
 10 to solve the problem with respect to Van Scoy Diamond
 11 Mine.
 12 MR. QUINN: Objection to the question, the
 13 form. It's a leading question.
 14 MR. PETOCK: This is an adverse witness.
 15 I'm entitled to lead the witness.
 16 MR. QUINN: And objections to form are to
 17 be made today. We agreed on that at the beginning.
 18 By MR. MICHAEL F. PETOCK:
 19 Q. Can you answer the question?
 20 A. I can tell you what I did. I don't really
 21 understand your question.
 22 MR. QUINN: If you don't understand the
 23 question, you should not answer it.
 24 Q. Tell me what you did.

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1 MR. QUINN: Is that a question?
 2 MR. MICHAEL F. PETOCK: Yes. Tell me what
 3 you did.
 4 MR. QUINN: That's not a question.
 5 MR. MICHAEL F. PETOCK: I'm asking: What
 6 did you do?
 7 MR. QUINN: That's a question.
 8 A. I received the letter and it said to stop using
 9 the name, so I thought I should cross it out, it would
 10 be a good idea. That's it.
 11 Q. By crossing out "Mine," you thought that would
 12 avoid the problem with "Van Scoy Diamond Mine"?
 13 MR. QUINN: Objection. That's not a
 14 question.
 15 Q. Is that correct?
 16 MR. QUINN: That's a leading question. I
 17 object to it as to form.
 18 Q. Is that correct?
 19 A. I don't know.
 20 Q. Just so the record is clear, what was the
 21 advice that you got from counsel with respect to
 22 blocking out the name "Mine"?
 23 MR. QUINN: Objection. That calls for
 24 inquiry into and to break the attorney-client

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1 privilege. The witness should not answer that
 2 question.
 3 Q. When did you tell employees to stop blocking
 4 out "Mine" from the sales receipts?
 5 A. They never started and stopped. They just did
 6 it one time.
 7 Q. When did you tell them not to do it any longer?
 8 A. I don't believe I have.
 9 Q. You said earlier that you told them not to do
 10 it any longer. Isn't that correct?
 11 MR. QUINN: Objection. The record will
 12 show what she said.
 13 A. I don't remember.
 14 MR. MICHAEL F. PETOCK: I guess you need
 15 a break now?
 16 THE VIDEOGRAPHER: Yes. Going off the
 17 record at 10:56 a.m.
 18 - - - - -
 19 THE VIDEOGRAPHER: Going back on the
 20 record at 11:05 a.m.
 21 BY MR. MICHAEL F. PETOCK:
 22 Q. During the break, did you discuss any of this
 23 testimony with your counsel, Mr. Quinn?
 24 A. No.

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1 Q. Just so I'm clear here. You said -- is it
 2 correct that you said you told Megan and Karen to
 3 cross out "Mine" from the receipts?
 4 MR. QUINN: Objection. The record will
 5 show what she said. The question has been asked and
 6 answered.
 7 Q. Will you answer that? I'm unclear.
 8 A. Yes.
 9 Q. When Kurt and you -- when Kurt goes on
 10 vacation, do you usually go with him?
 11 MR. QUINN: Objection. That's not a
 12 question.
 13 Q. Do you usually go with Kurt on vacations?
 14 A. Vacations, yes.
 15 Q. Was Kurt in the store when the cease and desist
 16 letter came in?
 17 A. No.
 18 Q. Did you consult with Kurt before you told Megan
 19 and Karen to cross out the word "Mine" from the sales
 20 receipts?
 21 A. No.
 22 Q. And you said you consulted with counsel with
 23 respect to the crossing out of "Mine" from the sales
 24 receipts. What counsel was that?

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1 A. I never discussed it with counsel. It was
 2 what -- I am not sure. I believe it was told to
 3 counsel what was done and I was told that it wasn't
 4 necessary.
 5 MR. QUINN: Limit your response to the
 6 question that was asked.
 7 BY MR. MICHAEL F. PETOCK:
 8 Q. Who told you it wasn't necessary?
 9 A. I don't recall.
 10 Q. Was it Kurt?
 11 A. I don't recall.
 12 Q. When did this occur?
 13 A. What occur?
 14 Q. That you were told that it was no longer
 15 necessary to cross out "mine."
 16 MR. QUINN: Objection. That's not a
 17 question.
 18 Q. When did it occur?
 19 A. I don't recall.
 20 Q. When you told Megan and Karen to cross out
 21 "Mine" from the sales receipts, did you also consider
 22 changing the store sign?
 23 A. No.
 24 Q. And why not?

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1 A. I don't make those kinds of decisions.
 2 Q. Did you consider changing "Van Scoy Diamond
 3 Mine" on the Internet?
 4 A. I don't deal with the Internet.
 5 Q. Who deals with the Internet?
 6 A. Kurt.
 7 Q. Did you believe that "Van Scoy Diamonds of
 8 Delaware, Inc." would not be an infringement of
 9 "Van Scoy Diamond Mine"?
 10 A. I don't know.
 11 Q. Do you have any belief as to that?
 12 A. I don't really understand the question.
 13 Q. Did you believe that deleting the word "Mine"
 14 from "Van Scoy Diamond Mine of Delaware, Inc." would
 15 obviate or eliminate the problem with the cease and
 16 desist letter?
 17 A. I still don't understand.
 18 Q. What don't you understand about it?
 19 A. I just did it because it said to stop using the
 20 name. That was my own decision. And I don't know why
 21 I did it.
 22 (Plaintiff's Exhibit No. 26 was marked for
 23 identification.)
 24 BY MR. MICHAEL F. PETOCK:

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1 Q. I show you what's been marked as Plaintiff's
 2 Exhibit No. 26. Can you identify that?
 3 A. It's a receipt to a customer.
 4 Q. And it's a receipt of the store Van Scoy
 5 Diamond Mine of Delaware, Inc. Is that correct?
 6 A. Yes.
 7 Q. On that receipt the word "Mine" is blocked out.
 8 Is that correct?
 9 A. Yes.
 10 Q. The date of this is November 24th, 2004?
 11 A. Yes.
 12 MR. QUINN: Objection. Leading. It's not
 13 a question.
 14 Q. Whose initials are in there where it says "sold
 15 by"?
 16 A. Mine, "DVS."
 17 Q. And was this the first day that a sales receipt
 18 was used with the word "Mine" blocked out of the
 19 "Van Scoy Diamond Mine of Delaware, Inc."?
 20 A. I am not sure of the first day.
 21 Q. By the way, did you receive the cease and
 22 desist letter?
 23 A. I didn't sign for it, no.
 24 Q. Did you open it?

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1 A. Yes.
 2 (Plaintiff's Exhibit No. 27 was marked for
 3 identification.)
 4 BY MR. MICHAEL F. PETOCK:
 5 Q. I show you what's been marked as Plaintiff's
 6 27. Can you identify that?
 7 A. It's a receipt.
 8 Q. Of what?
 9 A. From our store.
 10 Q. What date is that?
 11 A. 11/24.
 12 Q. That doesn't have "Mine" blocked out. Is that
 13 correct?
 14 A. Correct.
 15 Q. Is that by Megan Rump?
 16 A. Yes.
 17 Q. Does that help refresh your recollection as to
 18 whether the first day that sales occurred with "Mine"
 19 blocked out was November 24th?
 20 A. It would seem so.
 21 Q. I'll also represent for the record that we
 22 requested your counsel to produce all the sales
 23 invoices with "Mine" blocked out and the first date
 24 was November 24th.

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1 A. Okay.
 2 Q. Do you believe that "Van Scoy Jewelers" would
 3 not infringe the service mark or trademark "Van Scoy
 4 Diamond Mine"?
 5 A. I don't know.
 6 Q. What's your belief?
 7 MR. QUINN: She just answered the
 8 question. So she doesn't have to answer it again. I
 9 object.
 10 MR. MICHAEL F. PETOCK: It's a different
 11 question.
 12 MR. QUINN: The first question was: Do
 13 you believe? And the second question was: What is
 14 your belief? Those are the same questions. We can
 15 have the reporter read them back.
 16 BY MR. MICHAEL F. PETOCK:
 17 Q. Do you have any personal opinion on it?
 18 MR. QUINN: How does that question differ
 19 from her belief?
 20 Q. Answer the question, please.
 21 MR. QUINN: I have an objection to the
 22 question as to the form. It's been asked and
 23 answered.
 24 A. I don't know.

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1 Q. How did it come about that -- I'll represent to
2 you that the last date that an invoice was produced by
3 your counsel with "Mine" blocked out was March 31,
4 2005. How did it come about that you stopped blocking
5 out "Mine"?

6 A. I only blocked it out one time, all the
7 receipts we had.

8 Q. Were they then told not to block it out any
9 further, any longer?

10 A. It was never really brought up again. We just
11 blocked out the ones we had, and that was the end of
12 it.

13 Q. You never told them not to block it out
14 anymore?

15 MR. QUINN: Objection. It's been asked
16 and answered.

17 MR. MICHAEL F. PETOCK: You are
18 obstructing this deposition, Charlie.

19 MR. QUINN: I'm trying to get the
20 questions to be asked in the proper form.

21 MR. MICHAEL F. PETOCK: Can you read back
22 the last question, please?

23 (The reporter read as requested.)

24 BY MR. MICHAEL F. PETOCK:

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1 Q. You testified they blocked out the word "Mine"
2 on one occasion. Is that correct?

3 A. Correct.

4 Q. And is it your testimony that they were never
5 instructed to block it out again after that?

6 A. That is correct.

7 (Plaintiff's Exhibit No. 28 was marked for
8 identification.)

9 BY MR. MICHAEL F. PETOCK:

10 Q. I show you what's been marked as Plaintiff's
11 Exhibit 28. Would you look through that? Are all of
12 those sales receipts sales made by you?

13 A. Some are payments, so, no.

14 Q. I'm sorry. What?

15 A. No, they are not sales made by me.

16 Q. Which ones are not sales made by you?

17 A. 11/29/04, Joe Lamonaco; Tom Sharrar, 3/9/05;
18 Michael Lenoir, 12/24.

19 MR. QUINN: Speak up so she can hear you.

20 A. Michael Lenoir, 12/24/04; David Fillippone,
21 12/28/04; Mark Garcia, 12/21.

22 MR. QUINN: Is that all?

23 A. Chris Harrison, 1/10/05.

24 Q. You said 1/10/05? Is that 1105?

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1 A. 1/10/05.

2 MR. MICHAEL C. PETOCK: She's talking
3 about dates.

4 MR. MICHAEL F. PETOCK: Oh.

5 BY MR. MICHAEL F. PETOCK:

6 Q. First of all, all of those are sales receipts
7 of Van Scoy Diamond Mine of Delaware, Inc. Is that
8 correct?

9 A. Yes.

10 Q. And all of them except for the first one has
11 "Mine" blocked out of "Van Scoy Diamond Mine of
12 Delaware, Inc." Isn't that correct?

13 A. And the last one was.

14 Q. I think you said the invoice -- first of all,
15 these are all sales receipts of Van Scoy Diamond Mine
16 of Delaware, Inc. Is that correct?

17 A. Yes.

18 Q. And I believe you said the invoice of 11/29/04,
19 which is D001269, to Joe Lamonaco --

20 A. Yes.

21 Q. -- was not a sale made by you?

22 MR. QUINN: I instruct the witness to wait
23 till the question is asked before you respond.

24 A. It was a payment taken.

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1 Q. I'm sorry?

2 A. A payment.

3 Q. Oh. So you are distinguishing between sales
4 and payments?

5 A. Yes.

6 Q. But all of these sales receipts are invoices --
7 are transactions handled by you on these invoices. Is
8 that correct?

9 A. Except one.

10 Q. Which one is that?

11 A. Dr. Garcia.

12 Q. 11/21/04?

13 A. Yes.

14 Q. And that bears the initials "DVS." Is that
15 correct?

16 A. Yes.

17 Q. Are you saying that's not your initial on
18 there?

19 A. It is my initials, but it was Kurt's sale.

20 Q. But you wrote up the sales receipt, is that
21 correct, where you marked Garcia on 11/21/04?

22 A. I just put my initials.

23 Q. Is that your handwriting on the sales receipt?

24 A. No. It's Kurt's. Yes, it's Kurt's.

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1 Q. Kurt's. Why did you put your initials on it?

2 A. Because he forgot to. When I was doing the
3 receipts, I probably just put "DVS."

4 Q. Why is that important?

5 A. Well, just if a customer comes in, you know who
6 waited on them.

7 Q. Are commissions paid to the salespeople?

8 A. No.

9 (Plaintiff's Deposition Exhibit No. 29 was
10 marked for identification.)

11 MR. QUINN: Excuse me. Does that mean
12 this whole collection? They're paper-clipped, but not
13 stapled like the others were.

14 MR. MICHAEL C. PETOCK: It's all a
15 collection. It should have been stapled.

16 MR. QUINN: Thank you.

17 BY MR. MICHAEL F. PETOCK:

18 Q. I show you what's been marked as Plaintiff's
19 Exhibit 29. First of all, are all of these sales
20 receipts, sales receipts of Van Scoy Diamond Mine of
21 Delaware, Inc.?

22 A. Yes.

23 Q. And do all of them have "Mine" crossed out?

24 A. Yes.

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1 Q. Are these all sales made by Kurt?

2 A. Yes.

3 Q. Where was Kurt when the cease and desist letter
4 came in. Do you know?

5 A. Yes. He was out of town on a hunting trip.

6 Q. In Northeast, Pennsylvania?

7 A. Yes.

8 MR. QUINN: Object.

9 A. Sorry.

10 MR. QUINN: That's not a question.

11 Q. There are question marks after all those
12 things.

13 MR. QUINN: Well, it may be in your mind,
14 but not --

15 MR. MICHAEL C. PETOCK: Charlie, you asked
16 questions in the same exact way in your deposition,
17 and we didn't do that to you. It's -- you did the
18 exact same thing. I just want to point that out.

19 MR. QUINN: Thank you for your assistance.
20 I don't agree with that characterization.

21 MR. MICHAEL C. PETOCK: Read the
22 transcript, Charlie. It's very clear from the
23 transcript.
24

1 BY MR. MICHAEL F. PETOCK:

2 Q. Van Scoy Diamond Mine of Delaware, Inc. changed
3 its website address from Van Scoy Diamond Mine.com to
4 Van Scoy Diamonds of Delaware.com. Is that correct?

5 MR. QUINN: Objection. Leading.

6 Q. Is that correct?

7 A. I don't know anything about the website.

8 Q. You don't know that?

9 A. I have already stated that, nothing.

10 Q. You don't know that the name has been changed?

11 A. No.

12 Q. Do you ever look at the website?

13 A. No.

14 Q. Do you know how long that website has been up?

15 A. No, I do not.

16 Q. Do you have a computer at home?

17 A. No.

18 Q. Do you have Internet access at your computer at
19 your desk in the store?

20 A. I believe so.

21 Q. Do you ever go on the Internet?

22 A. No.

23 (Plaintiff's Exhibit No. 30 was marked for
24 identification.)

1 BY MR. MICHAEL F. PETOCK:

2 Q. I show you what's been marked as Plaintiff's
3 Exhibit 30. Do you recognize that?

4 A. Yes.

5 Q. What is that?

6 A. The letter that we received in the mail.

7 Q. That's the cease and desist letter. Is that
8 correct?

9 A. If that's what it's called, yes.

10 Q. In that letter, I am telling you that I
11 represent Mr. Wayne Van Scoy. Is that correct?

12 A. Yes.

13 Q. And attached to the letter were copies of
14 trademark -- copies of the trademark and a service
15 mark registration. Is that correct?

16 A. Mm-hmm. Yes.

17 Q. And you saw that there were two registrations
18 for "Van Scoy Diamond Mine," both owned by Wayne
19 Van Scoy?

20 A. Yes.

21 Q. The letter also represented to you that my
22 client, Wayne Van Scoy, owned the service mark and
23 trademark registrations. Isn't that correct?

24 A. Yes.

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1 Q. At that point in time, you were also -- it was
2 demanded that you immediately cease and desist from
3 infringement of the -- of the identified federally
4 registered service mark and trademark of Mr. Wayne
5 Van Scoy. Is that correct?

6 MR. QUINN: Objection. The letter says
7 what it says.

8 Q. Isn't that correct?

9 A. That's what it says.

10 Q. When you read that letter, you knew then that
11 Wayne Van Scoy owned the federal trademark
12 registration. Isn't that correct?

13 A. At that moment, yes.

14 Q. And that Wayne Van Scoy, the plaintiff, was
15 demanding that you stop any further use of the marks
16 "Van Scoy Diamond Mine." Isn't that correct?

17 A. Yes.

18 Q. And also you knew that any permission which was
19 allegedly given by Tommy Van Scoy, Jr. -- Sr., was
20 terminated. Isn't that correct?

21 A. No.

22 Q. Why do you say that?

23 A. I didn't even know there was a trademark.

24 Q. But when you received the letter, you knew

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1 that. Correct?

2 MR. QUINN: Objection. Objection. That's
3 leading.

4 MR. MICHAEL F. PETOCK: Objection. You
5 are obstructing the deposition.

6 MR. QUINN: The letter is silent --

7 MR. MICHAEL F. PETOCK: Objection.

8 MR. QUINN: -- with respect to anything
9 about Mr. Tommy Van Scoy.

10 MR. MICHAEL F. PETOCK: Objection. You
11 are testifying. Mr. Quinn, you are testifying. And I
12 demand that you stop testifying.

13 MR. QUINN: You can demand it all you
14 want. I am not going to stop raising my objections.

15 MR. MICHAEL F. PETOCK: You are making a
16 speaking objection.

17 MR. QUINN: Let me speak so we get
18 something clear. Otherwise, I'm going to talk while
19 you are talking and the transcript is not going to be
20 clear.

21 MR. MICHAEL F. PETOCK: I don't care.
22 You are not allowed to coach the witness or lead the
23 witness. You are coaching the witness.

24 MR. QUINN: When you asked the question

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1 and characterized this letter as saying something
2 about Mr. Tommy Van Scoy and make --

3 MR. MICHAEL F. PETOCK: I didn't
4 characterize that in the letter.

5 MR. QUINN: You did. Please read the last
6 question back.

7 (The reporter read as requested.)

8 MR. QUINN: I stand on what I just said.
9 There is no mention of Tommy Van Scoy in this letter.
10 And the question as read back mentions his name and
11 asks the question --

12 MR. MICHAEL F. PETOCK: It mentions his
13 name, but it asks a different question.

14 MR. QUINN: -- as to what permission was
15 given about Mr. Tommy Van Scoy. The question is
16 objectionable. The letter says what it says. And
17 that's my position.

18 BY MR. MICHAEL F. PETOCK:

19 Q. Can you answer the question?

20 A. What question?

21 Q. The question was: When you received the cease
22 and desist letter, you knew that any alleged
23 permission given by Tommy Van Scoy, if any, was
24 terminated?

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1 A. No.

2 Q. Why do you say that?

3 A. Because my father-in-law gave us the name to
4 use. And he was still alive at this time.

5 Q. But there was nothing in writing as to any
6 permission. Is that correct?

7 MR. QUINN: Objection. Leading.

8 A. To my knowledge.

9 Q. And the only permission that was given -- the
10 only words that were given in the form of permission
11 were "good luck"?

12 MR. QUINN: Objection. Leading.

13 Q. Isn't that correct?

14 MR. QUINN: Objection. Leading.

15 A. To my knowledge.

16 MR. MICHAEL F. PETOCK: Charlie, I am
17 allowed to lead an adverse witness, an adverse party.
18 I wish you'd stop objecting these frivolous objections
19 and obstructing this deposition.

20 MR. QUINN: I am not obstructing the
21 deposition.

22 MR. MICHAEL F. PETOCK: Yes, you are.

23 MR. QUINN: We stipulated at the beginning
24 that all objections were waived until the time of

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1 trial, except for the form of the question. And those
2 are the objections I am making. They're leading
3 questions.

4 MR. MICHAEL C. PETOCK: The judge would
5 not appreciate a leading objection to an adverse
6 witness. I am sure he wouldn't allow that and I am
7 sure if we were to take it to the judge --

8 MR. QUINN: Then there shouldn't have been
9 any stipulation as to the leading -- all objections
10 being waived except as to leading because then it's
11 meaningless. The stipulation is meaningless.

12 MR. MICHAEL C. PETOCK: It's not an
13 objection in good faith when you know you can't make a
14 leading objection to an adverse witness.

15 MR. QUINN: It is an objection made in
16 good faith. I resent any implication or assertion
17 that these objections are not made in good faith.

18 MR. MICHAEL F. PETOCK: They cannot be
19 made in good faith when you know there is a perfect
20 right to ask leading questions as to an adverse party.

21 MR. QUINN: I am standing on what I said
22 before. If you didn't want leading objections, we
23 should have stipulated that at the beginning, but we
24 didn't. We stipulated that all objections were waived

1 bankruptcy settlement?

2 A. No.

3 Q. Did you know anything about a settlement being
4 negotiated with the bankruptcy court on behalf of
5 Tommy Van Scoy, Sr. at the time that it was occurring
6 in 2000?

7 A. No.

8 Q. On the website, on your website, Van Scoy
9 Diamond Mine of Delaware.com., do you know whether
10 prices are on that site?

11 A. I do not.

12 Q. Do you know whether pictures of product are
13 shown on it?

14 A. I do not.

15 Q. Do you have any knowledge of any sales having
16 been made via the Internet, via your Internet website
17 in the last two months?

18 A. No, I do not.

19 Q. Would you know if sales were made via the
20 Internet?

21 A. No.

22 Q. Do you know what portion of your website is
23 called where the products are shown?

24 A. Once again, I am not associated with the

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1 except for leading -- objections as to the form of the
2 question. And an objection as to a leading question
3 is an objection as to the form; therefore, I must make
4 them now or they are waived. And I don't intend to
5 waive them. You made the stipulation. We're going to
6 live with it.

7 MR. MICHAEL F. PETOCK: You are not acting
8 in good faith.

9 MR. QUINN: Pardon me?

10 MR. MICHAEL F. PETOCK: You are not acting
11 in good faith.

12 MR. QUINN: I resent that. I tell you I
13 am acting in the best of faith. I am trying to do my
14 job and create a record that is going to be clear for
15 the benefit of both parties and for the court.

16 BY MR. MICHAEL F. PETOCK:

17 Q. Were you ever involved in any discussions with
18 respect to any contributions to a bankruptcy
19 settlement in the bankruptcy proceeding of Tommy
20 Van Scoy, Sr.?

21 A. No.

22 Q. Did Kurt ever say anything to you about --

23 A. No.

24 Q. -- a request from Wayne to contribute to the

1 website at all.

2 Q. You have never looked at it?

3 A. Never. I don't have time.

4 Q. Why do you not have time?

5 A. I don't know.

6 (Van Scoy Deposition Exhibit No. 31 was
7 mark for identification.)

8 BY MR. MICHAEL F. PETOCK:

9 Q. Before we go on to Plaintiff's Exhibit 31, do
10 you recall what day of the week it was when you
11 received the cease and desist letter?

12 MR. QUINN: Excuse me. This is marked as
13 5. So this is -- do you want to keep the same number?

14 MR. MICHAEL F. PETOCK: Well, we're going
15 to mark it again as 31.

16 MR. QUINN: All right.

17 BY MR. MICHAEL F. PETOCK:

18 Q. Do you recall what day of the week it was when
19 the cease and desist letter was received?

20 A. Yes.

21 Q. What day of the week was it?

22 A. Saturday.

23 Q. That would have been November 20th. Isn't that
24 correct?

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- 1 A. If that's a Saturday, I would say, yes.
 2 Q. I show you now what's been marked as
 3 Plaintiff's Exhibit 31. Can you identify that?
 4 A. Yes. It's the warranty that Mr. Van Scoy gave
 5 us to use to give to our customers after they purchase
 6 something.
 7 Q. And do you use that warranty in your store now?
 8 A. Yes.
 9 Q. And have you always used it?
 10 A. Yes.
 11 Q. And that's signed "Van Scoy Diamond Mine." Is
 12 that correct?
 13 A. Yes.
 14 Q. And also the address "1117 Churchmans Place."
 15 Is that correct?
 16 A. Yes.
 17 Q. The last paragraph of that warranty requires
 18 you to provide free cleaning and inspection for
 19 damaged prongs for free for diamonds or product
 20 purchased at any other Van Scoy Diamond Mine. Is that
 21 correct?
 22 A. Yes.
 23 Q. Do you honor that policy?
 24 A. Yes.

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- 1 Q. Is that your policy to honor it?
 2 A. Yes.
 3 Q. Have you always used the warranty --
 4 A. Yes.
 5 Q. -- since opening in 1994?
 6 A. Yes.
 7 Q. Have you ever refused to honor a warranty for
 8 products sold by plaintiff Wayne Van Scoy?
 9 A. Not that I know of.
 10 Q. Do you know of anyone in your store refusing to
 11 clean jewelry which was purchased at plaintiff Wayne
 12 Van Scoy's store?
 13 A. Not that I know of.
 14 (Plaintiff's Exhibit No. 32 was marked for
 15 identification.)
 16 BY MR. MICHAEL F. PETOCK:
 17 Q. I show you what's been marked as Plaintiff's
 18 Exhibit 32. Have you ever seen that letter before?
 19 A. Yes.
 20 Q. When did you see it?
 21 A. In March, probably.
 22 Q. And did you take any steps to preserve evidence
 23 after seeing this letter?
 24 A. No.

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- 1 Q. Did you take any steps to preserve any evidence
 2 after seeing the cease and desist letter in November?
 3 A. No.
 4 Q. Do you know anything about the bankruptcy
 5 proceeding other than what you have already told us?
 6 A. No.
 7 Q. Did you ever go to the bankruptcy court?
 8 A. No.
 9 Q. Do you know if Kurt went to the bankruptcy
 10 court?
 11 A. I don't know.
 12 Q. Did Kurt bring back some documents from
 13 Wilkes-Barre when he came back from his hunting trip
 14 in the end of November of 2004?
 15 A. I don't know.
 16 Q. Did you ever see any documents from the
 17 bankruptcy court?
 18 A. Maybe in some of the evidence. I don't
 19 remember.
 20 Q. Did you ever see any at home or in the store?
 21 A. No.
 22 Q. Did Kurt ever show you any bankruptcy
 23 documents?
 24 A. Not that I recall.

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- 1 MR. MICHAEL F. PETOCK: 33.
 2 (Plaintiff's Exhibit No. 33 was marked for
 3 identification.)
 4 BY MR. MICHAEL F. PETOCK:
 5 Q. I show you what's been marked Plaintiff's
 6 Exhibit No. 33.
 7 A. Part of the tax for advertising that you had
 8 requested.
 9 Q. That document contains blocked out portions of
 10 your corporate tax returns Form 1120S for the years
 11 1994 through 2004. Is that correct?
 12 A. Yes.
 13 Q. On that are shown -- the only numbers that were
 14 not blocked out was the advertising expenses?
 15 A. Yes.
 16 Q. And are those correct figures to the best of
 17 your knowledge?
 18 A. Did you ask if they are?
 19 Q. Yes, if they are correct figures to the best of
 20 your knowledge.
 21 A. Yes.
 22 Q. These are authentic copies of your corporate
 23 tax returns showing the advertising expenses for the
 24 years 1994 through 2004. Is that correct?

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1 A. Yes.
 2 Q. Continuing to look at Plaintiff's Exhibit 33.
 3 The advertising figures fluctuate somewhat. Do you
 4 know any particular reason that they do that?
 5 A. The amounts each year?
 6 Q. Yes. Is that just normal variation or is there
 7 any reason for it?
 8 A. I am not really sure. Kurt does the
 9 advertising. There could be different expenses, I
 10 guess.
 11 Q. Like advertising expenses for 2004 were
 12 \$52,270. Do you see that?
 13 A. Yes.
 14 Q. That's slightly less than the advertising
 15 expenses for 1995 of \$54,803?
 16 A. Yes.
 17 Q. Any comment on why the advertising expenses are
 18 just -- stayed constant even though there is
 19 inflation, ten years of inflation involved there?
 20 A. I couldn't answer that. I don't know.
 21 Q. I noticed there was a jump in advertising
 22 expenses from '99 to 2000. Approximately a little
 23 less than \$60,000 to \$84,000. Any particular reason
 24 for that?

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1 A. I don't know.
 2 Q. Do you think that's just normal business
 3 variation, depending upon what advertising was done a
 4 particular year?
 5 MR. QUINN: Is that a question?
 6 MR. MICHAEL F. PETOCK: Yes. Go ahead.
 7 A. Yes.
 8 Q. I am going to show you a plastic bag I'll
 9 represent has been produced by your counsel and marked
 10 as D001813. It bears on both sides marked "Van Scoy's
 11 Diamond Mine." Is this a bag that's used in the
 12 operation of your store, Van Scoy Diamond Mine?
 13 A. Yes.
 14 Q. How long have you been using that bag?
 15 A. Since 1994.
 16 Q. I show you a box produced by your counsel,
 17 which is marked D001811 and bears the mark on the
 18 inside of the box cover "Van Scoy Diamond Mine." Is
 19 that a box that's used in the operation of your
 20 business, Van Scoy Diamond Mine of Delaware, Inc.?
 21 A. Yes.
 22 Q. How long has that been used?
 23 A. 1994.
 24 Q. Both the bag and this box have been used

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1 continuously from 1994 to present?
 2 A. Correct.
 3 Q. I show you another box produced by your counsel
 4 that's been marked as D001812 and bears on the inside
 5 of the box cover "Van Scoy Diamond Mine." Is that a
 6 box that's used in the operation of your business,
 7 Van Scoy Diamond Mine of Delaware, Inc.?
 8 A. Yes.
 9 Q. How long has that been used?
 10 A. I am not sure.
 11 Q. More than two years?
 12 A. Yes.
 13 Q. And you are continuing to use all three of
 14 these in your business?
 15 A. Yes.
 16 Q. And the boxes and bags are given to customers
 17 with product sales. Is that correct?
 18 A. Correct.
 19 Q. You also have in your possession, isn't it
 20 correct, some advertising audio tapes made by Thomas
 21 Van Scoy, Sr. Is that correct?
 22 A. Audio tapes?
 23 Q. Advertising audio tapes.
 24 A. Yes.

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1 MR. MICHAEL F. PETOCK: Is there any
 2 problem with "attorney's eyes only" to ask about these
 3 tapes? I am not hearing any. I am just asking some
 4 questions about it. It's already been filed in court
 5 papers.
 6 MR. QUINN: Let's start. If there is,
 7 I'll raise the objection. Is that fair?
 8 MR. MICHAEL F. PETOCK: Okay.
 9 BY MR. MICHAEL F. PETOCK:
 10 Q. What are these tapes?
 11 A. Advertisements.
 12 Q. And where did you get them?
 13 A. Tommy Van Scoy.
 14 Q. Sr.?
 15 A. Sr.
 16 Q. Were they made by Tommy Van Scoy, Sr.?
 17 A. Yes.
 18 Q. Where did he make these at?
 19 A. The radio station in Wilkes-Barre, I believe.
 20 Q. Were they used in advertising on the radio?
 21 A. Yes.
 22 Q. And for how long?
 23 A. I am not sure.
 24 Q. Are they still being used on the radio

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1 advertising?

2 A. I don't believe so.

3 Q. When did you stop using them?

4 A. I don't recall.

5 Q. A year ago?

6 MR. QUINN: Objection. She's answered the
7 question. She doesn't recall.

8 Q. Was it more than a year ago when you stopped
9 using them?

10 MR. QUINN: She's answered that question.
11 She said she didn't recall.

12 MR. MICHAEL F. PETOCK: Objection. You
13 are coaching the witness and you are --

14 MR. QUINN: I am not coaching the witness.

15 MR. MICHAEL F. PETOCK: Yes, you are.

16 MR. QUINN: You have asked the question
17 once and now you are twisting the words.

18 MR. MICHAEL F. PETOCK: It's a different
19 question. I want to get some --

20 MR. QUINN: She said she doesn't know.

21 MR. MICHAEL F. PETOCK: I want to test the
22 ability of her knowledge and of what her recollection
23 is.

24 MR. QUINN: She said she didn't know. How

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1 many times does she have to answer the question?

2 Q. Was it more than a year ago?

3 MR. QUINN: Objection. That question has
4 already been asked.

5 Q. Was it more than a year ago?

6 A. I don't know.

7 MR. QUINN: Objection again. It's been
8 asked again.

9 A. We --

10 MR. QUINN: She's answered it twice now
11 that she doesn't know.

12 MR. MICHAEL F. PETOCK: Let the witness
13 speak, Charlie.

14 MR. QUINN: I'll let her speak when I get
15 my objection out.

16 Q. Will you answer the question?

17 A. All I know is the advertising is updated. So
18 that's all I can tell you. I don't know. You can't
19 use the same ads over and over.

20 Q. Well, were these audio tapes used many years
21 ago or just a few years ago?

22 A. I don't know.

23 MR. QUINN: Objection. She's answered the
24 question again she doesn't know.

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1 Q. Why don't you want Wayne Van Scoy to hear or
2 see these tapes?

3 A. I don't know that either.

4 Q. Wouldn't the radio stations have copies of
5 these tapes on file?

6 A. I don't know.

7 Q. What was the extent of the advertising?

8 MR. QUINN: Objection. Vague and
9 indefinite. What does "extent" mean?

10 Q. You can answer the question, please, still?

11 A. I don't know. I don't do the advertising.

12 Q. But you know they were used on radio
13 advertising?

14 A. Yes.

15 Q. Did you hear them on the radio?

16 A. Yes.

17 Q. Was it more than one station?

18 A. I don't remember.

19 Q. What did the tape say?

20 A. I don't remember.

21 MR. MICHAEL F. PETOCK: Why don't we
22 break?

23 THE VIDEOGRAPHER: Going off the record at
24 12:02 p.m.

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1 - - - -

2 THE VIDEOGRAPHER: Going back on the
3 record at 12:11 p.m.

4 MR. MICHAEL F. PETOCK: Charlie, what I
5 would request that you do is to produce the remainder
6 of the lease documents which are missing. We've only
7 received a few pages. We received a page or two of
8 the current renewal and apparently a signature page
9 from back in '94. And we request that you produce the
10 lease documents and any other documents that we've
11 requested here today prior to the 30(b)(6) deposition
12 scheduled for next week.

13 BY MR. MICHAEL F. PETOCK:

14 Q. Did you discuss with your counsel any of the
15 questions that are being asked or anticipated being
16 asked in the deposition during the break?

17 A. No.

18 Q. Are you under the influence of any medications
19 or alcohol or anything when you are testifying here
20 today which would affect your memory?

21 A. No.

22 Q. Have you ever carried ought any
23 responsibilities or duties as secretary of the
24 corporation known as Van Scoy Diamond Mine of

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1 Delaware, Inc.?
 2 A. I don't know what they would be. No.
 3 Q. The answer is "no"?
 4 A. What do you mean "responsibilities."
 5 Q. Well, have you done anything? Do you keep any
 6 minutes? Do you do anything?
 7 A. No.
 8 Q. Do you still have family living in Nanticoke?
 9 A. Yes.
 10 Q. How often do you get up to visit them?
 11 A. Not often.
 12 Q. In the period of 1994 to 2000, did you get up
 13 there often then?
 14 A. I don't recall.
 15 Q. Do you know any other store besides your store
 16 and plaintiff's store which operates under the name
 17 "Van Scoy Diamond Mine"?
 18 A. I believe my brother-in-law Rick in Scranton.
 19 Q. Doesn't he operate under "Van Scoy Diamonds"?
 20 A. I'm not sure. It's confusing in the phone
 21 book.
 22 Q. Is there anyone else that you are aware of?
 23 A. I know there is a store in Lancaster and one in
 24 North Carolina and one in Allentown and Reading.

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1 Q. Do you know what those stores are using for
 2 names?
 3 A. No.
 4 Q. You don't know if they're using "Van Scoy
 5 Diamond Mine." Is that correct?
 6 A. Correct.
 7 Q. How did you and Kurt get to Charlie Quinn?
 8 A. I don't know.
 9 Q. Have you ever spoken to Mark Maurer?
 10 A. No.
 11 Q. Do you know anything about Mark Maurer?
 12 A. Just what I have heard.
 13 Q. What have you heard?
 14 A. That he owned a store.
 15 Q. Where did he own a store at?
 16 A. I am not sure.
 17 Q. Do you know where he lives?
 18 A. No.
 19 Q. Do you know where you would call him at if you
 20 were going to call him?
 21 A. No.
 22 Q. Have you ever spoken with him?
 23 A. No.
 24 Q. What is Kurt's relationship with Mark Maurer?

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1 A. I don't know.
 2 Q. Do you know the last time Kurt spoke to Mark
 3 Maurer?
 4 A. No, I do not.
 5 Q. You don't know what the names of the stores are
 6 that he operates under, do you?
 7 A. No.
 8 Q. Who made the decision to open the store
 9 "Van Scoy Diamond Mine" in Delaware?
 10 A. Kurt.
 11 Q. You were part of that. Weren't you?
 12 A. I helped.
 13 Q. You contributed \$20,000. Isn't that correct?
 14 A. Yes.
 15 Q. Did you ever have any discussions with Tommy,
 16 Sr. about opening the store?
 17 A. Not that I recall.
 18 Q. Do you believe that it was easier to open a
 19 store at 1117 Churchmans Road in Newark where
 20 previously Tommy, Sr. had operated a store for a
 21 number of years?
 22 A. I don't know. I never opened a store before.
 23 I don't know if it was easier.
 24 Q. Do you believe it was easier?

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1 MR. QUINN: Easier than what?
 2 MR. MICHAEL F. PETOCK: Easier than
 3 opening a store someplace where there had never been a
 4 Van Scoy Diamond Mine.
 5 A. No.
 6 Q. What do you mean by "no"? No, you don't know
 7 or no --
 8 A. No, I don't believe it would have been easier.
 9 Q. Do you know what was in the store when you
 10 first arrived?
 11 A. Nothing. Oh. There was a safe.
 12 Q. Wasn't there also a sign on top "Van Scoy"?
 13 A. That I don't remember.
 14 Q. What kind of safe was there when you arrived?
 15 A. I don't know what kind it is.
 16 Q. What size was it?
 17 A. I don't know what size it is.
 18 Q. Six feet tall?
 19 A. Probably five or six.
 20 Q. Do you know where it came from?
 21 A. No.
 22 Q. But it was in the store when you arrived there.
 23 Right?
 24 A. Yes.

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1 Q. Was it blue?
 2 A. Yes.
 3 Q. Did Wayne ever expressly give you permission to
 4 use the name "Van Scoy Diamond Mine," Wayne Van Scoy?
 5 A. No.
 6 Q. Did he ever give Kurt any permission to use
 7 "Van Scoy Diamond Mine"?
 8 A. I don't know.
 9 Q. To your knowledge, did he ever give the
 10 corporation any permission to use the name "Van Scoy
 11 Diamond Mine"?
 12 A. I don't know.
 13 Q. Did Wayne Van Scoy ever imply he gave
 14 permission to use the name "Van Scoy Diamond Mine"?
 15 A. I didn't know we needed permission.
 16 Q. That same answer would apply to Kurt and the
 17 corporation. Correct?
 18 A. That's correct.
 19 Q. How did you find out about the bankruptcy of
 20 Tommy Van Scoy, Sr.?
 21 A. I don't remember. I just heard it, I guess.
 22 Q. Where would you have heard it from?
 23 A. That I don't remember.
 24 Q. What did you know about the source of the

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1 financial difficulties of Tommy Van Scoy, Sr.?
 2 A. I didn't know much.
 3 Q. I'm sorry?
 4 A. I didn't know much.
 5 Q. What did you know?
 6 A. Not much at all. Just that there was a
 7 bankruptcy.
 8 Q. Did you know that Pam and Rick Sendrick's store
 9 in Scranton were enjoined from using the name
 10 "Van Scoy Diamond Mine"?
 11 A. No. I knew they were involved in the
 12 bankruptcy. But that's all I know.
 13 Q. How did you know they were involved in the
 14 bankruptcy?
 15 A. Just hearing it, I guess.
 16 Q. Did you know that Betsy Williams was enjoyed
 17 from using the name "Van Scoy Diamond Mine" in the
 18 bankruptcy court?
 19 A. I knew her name was in the bankruptcy, but
 20 that's all.
 21 Q. How did you know her name was in the
 22 bankruptcy?
 23 A. I don't know.
 24 Q. Did you know that the store, Van Scoy Diamond

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1 Mine store on Monday Street in Wilkes-Barre was
 2 enjoyed from using the name "Van Scoy Diamond Mine" by
 3 the bankruptcy court?
 4 A. I just know that there was a bankruptcy thing.
 5 I don't know that anyone was told not to use the name
 6 or anything, the details of it. Only that there was a
 7 bankruptcy. That's it.
 8 Q. Do you recall any discussion at all of anyone
 9 approaching your store, your company or you or Kurt
 10 with respect to seeking a franchise to franchise
 11 Van Scoy Diamond Mine, possibly in Baltimore or
 12 something like that?
 13 A. No.
 14 Q. No knowledge of that?
 15 A. No.
 16 Q. Am I correct in saying that you don't know why
 17 the domain name was changed from "Van Scoy Diamond
 18 Mine.com" to "Van Scoy Diamonds of Delaware.com." Is
 19 that correct?
 20 A. Yes.
 21 Q. Who made that decision?
 22 A. For me not to know?
 23 Q. No. To make that change in the domain name.
 24 A. I don't know. I don't know anything about

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1 that, I have stated before.
 2 Q. If it wasn't you, it would have been Kurt.
 3 Right?
 4 A. I guess.
 5 Q. Since there is only two of you that have an
 6 ownership interest in your company, is that correct,
 7 Van Scoy Diamond Mine of Delaware?
 8 A. Yes.
 9 Q. Do you consider "Van Scoy Diamond Mine" to be
 10 the same as "Van Scoy Diamonds" as far as the mark the
 11 jewelry store services?
 12 A. It depends.
 13 Q. Depends on what?
 14 A. Who is using it. If the person is Van Scoy, I
 15 guess, yes.
 16 Q. You would consider those two to be the same
 17 then if the person was a Van Scoy?
 18 A. I think so, in my opinion.
 19 Q. Is "Van Scoy Diamond Mine" a better or more
 20 creative mark than "Van Scoy Diamonds"?
 21 A. I don't know if it's more creative. I don't
 22 know. But I don't think about it that much.
 23 Q. Do you think your business would be harmed if
 24 it was forced to stop using "Van Scoy Diamond Mine"

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1 but was permitted to use "Van Scoy Diamonds"?
 2 A. No.
 3 Q. Are you aware of any customers of your store
 4 Van Scoy Diamond Mine that were customers of the
 5 previous Van Scoy Diamond Mine previous to 1994?
 6 A. Not that I know of.
 7 Q. Where do the majority of the customers of
 8 Van Scoy Diamond Mine of Delaware, Inc. come from?
 9 MR. QUINN: Where did or do?
 10 Q. Do come from.
 11 A. Newark, surrounding areas.
 12 Q. How far does the average person travel to buy a
 13 diamond ring or jewelry?
 14 A. I don't know.
 15 Q. Do you think that someone on the Internet that
 16 came across the website Van Scoy Diamond Mine.com
 17 would think there is a connection between that website
 18 and the store in Wilkes-Barre, Pennsylvania, operated
 19 by plaintiff?
 20 MR. QUINN: I think that question lacks
 21 foundation. So I object to it.
 22 A. I don't really know.
 23 Q. Are you aware of any complaints against any
 24 Van Scoy Diamond Mine store?

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1 A. From customers?
 2 Q. Yes.
 3 A. Yes.
 4 Q. What are you aware of?
 5 A. There's always going to be some complaints.
 6 You can't just run a perfect business. I don't know
 7 of a particular instance.
 8 Q. Do you know anything specific?
 9 A. There was one recent that came to mind about
 10 someone purchased a diamond and they went to trade it
 11 in and they said it wasn't the diamond that it was
 12 supposedly purchased. I do have a letter from that
 13 person.
 14 Q. Where was that diamond purchased from?
 15 A. I don't recall which store, but Wayne
 16 Van Scoy's name is at the bottom of the appraisal.
 17 Q. Is that the Delaware store?
 18 A. I don't recall which store it was purchased in.
 19 It was before my time.
 20 Q. That was purchased back prior to 1994?
 21 A. Yes.
 22 Q. But you don't know that the diamond that was
 23 brought in is the same diamond that was sold to that
 24 person either. Do you?

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1 A. No. All I saw was the letter.
 2 Q. What's your relationship with Tommy Van Scoy,
 3 Jr.?
 4 A. My brother-in-law.
 5 Q. What is your relationship with your
 6 brother-in-law?
 7 A. Very good. Close.
 8 Q. How often do you speak to him?
 9 A. A couple times a week.
 10 Q. What do you speak about?
 11 A. Kids.
 12 Q. Kids?
 13 A. Children. He has a son the same age as my son.
 14 Just personal.
 15 Q. Do you ever talk about the litigation?
 16 A. No.
 17 Q. What's your relationship with Tony Van Scoy?
 18 A. Close.
 19 Q. How often do you speak to him?
 20 A. Not as often. Maybe once a month.
 21 Q. Have you spoken to him at all about the
 22 litigation?
 23 A. No.
 24 Q. When was the last time Kurt spoke to Tommy

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1 Van Scoy, Jr.?
 2 A. Yesterday.
 3 Q. Do you know what the substance of that
 4 discussion was?
 5 A. Fish.
 6 Q. Anything about the litigation?
 7 A. No.
 8 Q. What's your relationship with Rick Sendrick?
 9 A. We don't have one.
 10 Q. Do you have any relationship with his wife,
 11 Pam?
 12 A. Not really.
 13 Q. What's your relationship with Ken Van Scoy?
 14 A. We don't really have one.
 15 Q. When was the last time you saw Ken?
 16 A. At the funeral, Mr.'s funeral.
 17 Q. What's your relationship with Wayne Van Scoy's?
 18 A. Don't have one.
 19 Q. My understanding is that at one time in the ten
 20 years since you've had the store you made some
 21 improvements to the store. Is that correct?
 22 A. Yes.
 23 Q. And what were those improvements?
 24 A. New carpeting, wallpaper.

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1 Q. Did you extend the showroom, too?
 2 A. Yes.
 3 Q. By how much?
 4 A. Four feet, five feet.
 5 Q. When did that take place?
 6 A. I am not sure of the exact date.
 7 Q. What's your best estimate of the date?
 8 A. Either '99 or 2000.
 9 Q. How much did it cost?
 10 A. I don't recall.
 11 Q. Do you have some estimate?
 12 A. A couple thousand.
 13 MR. MICHAEL F. PETOCK: I would like to
 14 take a five-minute break.
 15 THE VIDEOGRAPHER: Going off the record at
 16 12:31 p.m.
 17 -- -- -- --
 18 THE VIDEOGRAPHER: Going back on the
 19 record at 12:37 p.m.
 20 MR. MICHAEL F. PETOCK: We would -- we're
 21 going to retain the originals of the exhibits and make
 22 copies for the court reporter. Is that acceptable?
 23 MR. QUINN: You are going to retain the
 24 original?

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1 MR. MICHAEL F. PETOCK: Yes.
 2 MR. QUINN: That's fine. We have a set.
 3 Are you finished?
 4 MR. MICHAEL F. PETOCK: We have no
 5 further questions.
 6 THE WITNESS: Okay.
 7 THE VIDEOGRAPHER: Going off the record at
 8 12:38 p.m.
 9 -- -- -- --

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I N D E X	
NO.	PAGE
WITNESS: DONNA VAN SCOY	
Examination by Mr. Petock 3	
PLAINTIFF'S DEPOSITION EXHIBITS	
NO.	MARKED
17	Lease agreement 16
18	1/10/05 Minutes of annual meeting 18
19	of shareholders and directors
19	1/10/04 Minutes of annual meeting 19
	of shareholders and directors
20	1/10/03 Minutes of annual meeting 20
	of shareholders and directors
21	1/10/02 Minutes of annual meeting 22
	of shareholders and directors
22	1/10/01 Minutes of annual meeting 23
	of shareholders and directors
23	1/10/00 Minutes of annual meeting 23
	of shareholders and directors
24	1/10/99 Minutes of annual meeting 26
	of shareholders and directors
25	1/10/98 Minutes of annual meeting 27
	of shareholders and directors
26	Receipt, stamped D1243 42
27	Receipt, stamped D1239 44
28	Series of receipts, stamped D1233 47
	1243, 1268, 1269, D1390, D1391,
	D1438, D1509, D1513, D1539, D1540,
	D1588, D1633, D1638, D1644, D1657,
	D1684, D1698, D1729, D1738, D1751,
	D1762, D1767, D1775, D1791, D1799,
	D1296, D1340, D1370, D1374, D0987,
	D1013, D1016, D1067, D1080, D1083,

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PLAINTIFF'S DEPOSITION EXHIBITS	
NO.	MARKED
29	Series of receipts, stamped D0979, 50
	D1092, D1395, D1404, D1416, D1449,
	D1455, D1464, D1479, D1488, D1532,
	D1541, D1548, D1573, D1579, D1607,
	D1639, D1650, D1652, D1662, D1683,
	D1737, D1295, D1299, D1335, D1362,
	D1377, D1380
30	Cease and desist letter 52
31	Van Scoy Diamond Mine Registration 61
	and Certificate, stamped D0750
32	Letter, dated 2/22/05, to C. Quinn 63
	from M. F. Petock
33	Form 1120S U. S. Income Tax Returns, 65
	dated 1994 through 2004

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REPLACE THIS PAGE
WITH THE ERRATA SHEET
AFTER IT HAS BEEN
COMPLETED AND SIGNED
BY THE DEPONENT.

Page 91

1 State of Delaware)
2)
3 New Castle County)
4

5 CERTIFICATE OF REPORTER

6 I, Lucinda M. Reeder, Registered Diplomat
7 Reporter and Notary Public, do hereby certify that
8 there came before me on the 19th day of September
9 2005, the witness herein, DONNA VAN SCOY, who was duly
10 sworn by me and thereafter examined by counsel for the
11 respective parties; that the questions asked of said
12 witness and the answers given were taken down by me in
13 Stenotype notes and thereafter transcribed by use of
14 computer-aided transcription and computer printer
15 under my direction.

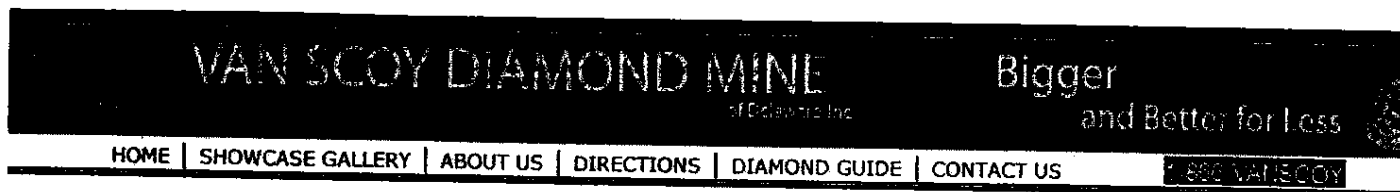
16 I further certify that the foregoing is a true
17 and correct transcript of the testimony given at said
18 examination of said witness.

19 I further certify that I am not counsel,
20 attorney, or relative of either party, or otherwise
21 interested in the event of this suit.

22 Lucinda M. Reeder, RDR, CRR
23 Certification No. 132-RPR
24 (Expires January 31, 2008)

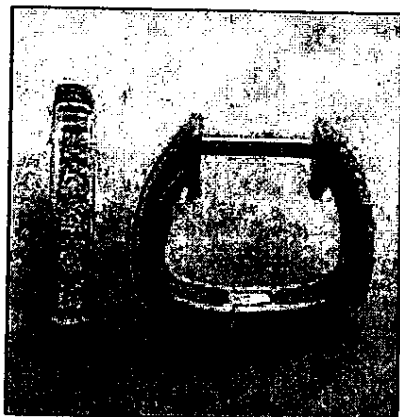
DATED: 9-26-05

EXHIBIT U



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Description: Round
Metal: 14kt w/g

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Comment / Questions:

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